

IRS News Release

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Treasury, IRS Issue Guidance on Transactions of Interest

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WASHINGTON — The Treasury Department and the Internal Revenue Service today issued two notices that identify as transactions of interest certain transactions involving “toggling” grantor trusts and certain transactions involving contributions of a successor member interest in a limited liability company.

Recently released final regulations about the disclosure of reportable transactions include the new transaction of interest category as one of the reportable transactions subject to disclosure.

"These are the first two transactions of interest we have published under the new regulatory scheme," said IRS Chief Counsel Don Korb. "Hopefully, the notices released today will give taxpayers and practitioners a better idea of the types of transactions that we will be identifying as transactions of interest in the future."

“Toggling” grantor trust transactions are utilized by grantors of these trusts in an attempt to avoid recognizing gain or to claim a tax loss greater than any actual economic loss by purportedly terminating and then reestablishing the grantor status of the trust. These grantor trust transactions usually occur within a short period of time (typically within 30 days).

Transactions involving contributions of a successor member interest are utilized by persons to claim charitable contributions that may be excessive. These transactions arise when a taxpayer acquires a successor member interest, directly or indirectly, in real property, transfers the interest to a tax-exempt organization, and claims a charitable contribution deduction that is significantly higher than the amount that the taxpayer paid for the interest.

In designating both transactions as transactions of interest, Treasury and the IRS believe both transactions have the potential for abuse, but lack sufficient information to determine whether the transactions should be identified specifically as tax avoidance transactions. Treasury and the IRS may take one or more future actions, including designating the transactions as listed transactions, or providing a new category of reportable transaction.

The notices also alert persons involved with these transactions of interest to certain responsibilities that may arise from their involvement.